

C A S E.

THE University of Oxford is a Corporation by Prescription, and likewise by Act of Parliament 13 Eliz. which also confirms "the University Charter 1 Apr. 14 Hen. VIII. and all other Charters granted by the Queen's Progenitors or Predecessors, and all Liberties, Franchises, Immunities, Quietances, and Privileges which the University had held, occupied, or enjoyed, or of Right ought to have had, used, occupied, and enjoyed, at any Time before the making of the said Act; any Statute, Law, Usage, Custom, Construction, or other Thing to the contrary notwithstanding."

The University assembled in Convocation, or great Congregation (consisting of the Chancellor, Doctors, Proctors, regent and non regent Masters) hath used Time out of Mind to make By-Laws or Statutes for its own domestic Regimen and Government. Of which there are some extant bearing Date so early as A. D. 1252, 36 Hen. III. [Registr. A. 58. B. 76.]

The Convocation hath also from Time to Time asserted and exercised a Power of altering and repealing the former Statutes of the University, in the Whole as well as in Part, as appears from the following Instances.

On the Complaint, and by the Advice of the Chancellor Abp. Warham, 14 Jan. 1513, [Reg. FF. Bodl. 14.] "1 Feb. 1513, Decretum est, Ut eligantur vel deputentur quinque vel septem Viri secundum Discretionem Congregationis majoris ad examinandum, reformandum, et adnucillandum omnia et singula Statuta nostra jam edita, et in unam veram et fidelem Copiam reducendum." Seven Delegates are accordingly named, and large Instructions given them; [Registr. G. 208, 209.] in the same Manner as in the Year 1510 a similar Power had been delegated to, and in Part executed, by one Dr. Younge. [Registr. FF. Bodl. 7.]

In a Letter from the University to their Chancellor Abp. Warham, about the Beginning of the Year 1518, they inform him that Cardinal Wolsey intending to settle some Lectures in the University, therefore "qui ejus dominationi maxime assistunt, nobis et amici et benevoli, sitiones fecerunt ut in omnibus statutis bonarum literarum usum spectantibus reformandis, revocandis, edendisque, ei omnem nostram Autoritatem delegatam faceremus. [Registr. FF. Bodl. 30.]

To this the Chancellor answers, 22 May 1518. "Si meam in hac re Sententiam expectatis, (et Cancellarii Universitatis consensus in tali negotio sane maximo, ut meum est judicium, requirendus est;) non inficias eo, quod si reverendissimus Dominus Cardinalis tales Lecturas destinatas perpetuo duraturas effecerit, pium et egregium magnique meriti opus tanti autoritate viri dignum et presentibus et futuris ostendet, per quod et viri sua gloria perfructur et nominis aeternitatem consequentur, unde, quantum ad statuta edenda super noviter institutis suis lectionibus, bene erit ut ille reverendissimus Dominus decernat quae sibi maxime videbuntur necessaria et opportuna, quoad conservationem earum lectionum et ad plenissimum studium scholastici profectum. Verum ut in illum reverendissimum Dominum Cardinalem transferatur omnis Autoritas reformandi, revocandi, delendi, et condendi omnia statuta concernentia usum bonarum literarum, (sic enim scribitis) non assentior id futurum conducibile aut expediens universitati, tametsi praedictus reverendissimus Dominus Cardinalis omne suum studium atque conatum ad commodum Universitatis in ea re referre velit. Nam cum fere omnia statuta Universitatis, aut in seipsis aut respectivo, concernant usum bonarum literarum studique scholastici, si omnis autoritas quoad talia statuta transferetur in alium ab Universitate, hoc est, a Cancellario, Congregationeque Regentium et non Regentium, non video quid auctoritatis restabit apud eosdem, eritque Universitatis Auctoritas inane nomen. Si vero reverendissimus Dominus Cardinalis velit animum suum super hisjunctis statuere

"reformandis, revocandis, et condendis declarare, postulareque ut secundum animi sui sententiam ab Universitate confirmetur, si tam salutaria Statuta erunt quam futura credibile est, facile omnes in suam Sententiam convertet, non dubito." [Ibid. 30.]

Notwithstanding this Letter, the University made a Decree of Convocation, 1 Jun. 1518. in these Terms; "In hujus itaque amplissimi patris virtute, industria, fide, clementia et benignitate plenissime confisi, meliorem modo formaque qua valeamus efficaciusque possumus, de communi consilio et consensu omnium regentium et non regentium, necnon omnium et singularum facultatum, Statuta, Ordinationes et Consuetudines ejusdem Universitatis quasque eidem amplissimo Patri humiliter submittimus, sibi que plenam et liberam quantum in nobis est concedimus potestatem eadem Statuta et Ordinationes quasque, etiam sedis Apostolicae aut cujusvis alterius auctoritate confirmatas, innovandi, instaurandi, non abolitas vero reformandi, interpretandi, mutandi, revocandi, abolendi, extirpandi, novasque sibi prout visum fuerit opportunum condendi, &c." [Ibid. 31.] Which Decree, couched in more and still stronger Words than are here recited, the Chancellor afterwards in a Letter, 6 May 1522. thus speaks of to the University. "Cujus reverendissimi Cardinalis Autoritati personas vestras Successorumque vestrorum sponte submisistis; singulis Statutis Privilegiis ac Libertatibus ejusdem Universitatis (me tunc Cancellario inconsulto) in vim patii renuntiantes." [Ibid. 51.]

Very little appears to have been done in Consequence of these ample Powers. But A. D. 1549. in the Minority of Edw. VI. Commissioners, being appointed under the Great Seal, visited and new-modelled the University and every College therein, and made a new Body of Statutes, which are still extant. [Reg. E. Bodl. 78.]

Afterwards A. D. 1556. Cardinal Pole, then Chancellor, sent down to the University a Body of new Statutes to be observed, till a Delegacy appointed by Convocation of two or three discreet Persons in each Faculty, together with the V. Chancellor, should determine in what Manner to correct and amend the former Statutes, "superflua tollendo, praesentibus temporibus non convenientia immutando, contraria ad concordiam, et inordinata ad ordinem reducendo, diminuta supplendo, aliaque Statuta prout Necessitas et Utilitas ipsius Universitatis suadebit de novo condendo." [Ib. 83.]

And "13 & 14 Nov. 1556. In celebri Convocatione perleguntur Statuta a Domino Cancellario per D. Colum Universitati tradita. Atque pro feliciore regimine istius Academiae, ex mandato Cardinalicio simul ac suffragio Convocationis, designantur quidam doctissimi Viri ex unaquaque facultate, qui una cum D. Colo, D. Raynoldo, dispiciant in unaquaque re quid factum optimum fuerit, atque quod faciendum fuerit, decernant." [Reg. I. 163.]

"11 Maii 1565. Celebrata est Convocatio Magistrorum regentium et non regentium, in qua publice lecta sunt Decreta quaedam edita prius, spectantia ad reformationem et emendationem et statutorum ipsius Academiae et aliarum Rerum, prout ipsis Decretis continetur, Auctoritateque ipsius Convocationis confirmata et stabilita sunt." [Registr. KK. 11.]

"25 Oct. 1576. Data est potestas egregiis Viris, et ferius nominatis, omnia Statuta antea edita considerandi, imperfecta corrigendi, inutilia et superflua abrogandi, et male disposita in Ordinem redigendi; Proviso semper ut omnia ea quae ad novum adjiciuntur, sive ut statuta integra sive ut partes statutorum, nullum robur habeant, nisi a Convocatione postea fuerint approbata." A Delegacy of 21 appointed. [Reg. KK. 222.]

"12 Sept. 1599. Procuratores nominabant quinque Delegates qui una cum Vice Cancellario et Procuratoribus in Ordinem redigant et exscribere curent Libros Statutorum Academicorum." [Reg. M. 4. 35.]

" 13 Dec. 1606. Cum Statuta et Ordinationes ad
 " perpetuum faustumque hujus almae Academiae Oxon. Re-
 " gimen, a Praedecessoribus nostris per tot quot praeteri-
 " erunt Annorum curricula feliciter excogitatae, editae, pro-
 " visae, sancitae, ac stabilitae, ad tantae magnitudinis
 " mensuram numerique multitudinem excreverint, ut eas
 " vel recensere, multo magis investigare atque invenire
 " opus sit plane arduum et permolestum ac pene infinitum,
 " eaeque non solum in varios libros sive chartas ab invicem
 " separatas dispergantur, sed etiam sint inter se admodum
 " repugnantes et in multis plane contrariae, per venera-
 " bilem Convocationem decretum est quod omnium et singu-
 " lorum Librorum, Chartarum, Scriptorum et Munimen-
 " torum, in quibus Statuta atque Ordinationes haec prae-
 " dictae insinuantur, describuntur, sive registrantur, dili-
 " gens habeatur Scrutinium et Examen; quodque ex illis
 " quae quotidiano et perpetuo Usui, atque ex re Universi-
 " tatis praedictae publica, maxime conveniant et sint ne-
 " cessariae retineantur, legumque et statutorum perpetuis
 " futuris temporibus vim habeant et auctoritatem, eaeque
 " ordine et methodo qua fieri possit optima, et ad inveniendum
 " maxime apta et expedita, digerantur, componantur, at-
 " que describantur, arbitrio et judicio venerabilium viro-
 " rum infra nominatorum, et ad haec per venerabilem Do-
 " mum praedictam delegatorum; ad uberiores felicioresque
 " quae almae hujus Academiae Gubernationem, et ad vitan-
 " dum perjuri reatum vel saltem periculum, necnon ad
 " expeditiorem paratioremque uniuscujusque statuti, sive
 " ordinationis, prout opus fuerit, et res exigerit, inven-
 " tionem. ----- Procuratores nominabant xi delegatos." [Reg. K. 1.]

In K. James the first's and the succeeding Reign, many Ordinances were sent to the University from the Crown, which were either made the Ground-work of new Statutes, or else were read and approved in Convocation in the very Terms wherein they were sent. As,

" 29 Jan. 1616. Directiones quaedam in scriptis
 " conceptae a Regia Majestate et manu sua propria
 " signatae pro meliori regimine, &c, celebri Coetui Doc-
 " torum, &c, manifestatae sunt." [Reg. N. 32.] Where-
 " upon, " 12 Feb. 1616, Delegati nominantur (among
 " whom Dr. Laud was one) ad deliberandum et statu-
 " endum de quibusdam ad directiones regias propositas spec-
 " tantibus, necnon de Statutis hujus Academiae Oxon. in
 " ordinem redigendis, castigandis, et de reliquis ad eadem
 " Statuta necessariis constituendis." [Reg. N. 36.]

" 31 Mar. 1617. Significavit Dominus Procancelle-
 " rius se Edicta regia cum Decretis desuper per Delegatos
 " sancitis ad Cancellarium nostrum honoratissimum misisse,
 " eumque Regiae Majestati eadem ostendisse, dictaque de-
 " creta Regiae Majestati perplacuisse; hincque voluisse
 " Cancellarium nostrum ut dicta decreta publicentur et
 " executioni omni cum cura et diligentia demandentur.
 " Quibus Decretis publice perlectis, eadem per celebrem
 " Coetum Doctorum, Magistrorum, &c, approbata
 " fuerunt, et pro publicatis cum consensu venerabilis Do-
 " mus Convocationis habita fuerunt." These consisted
 " of 8 Articles [Reg. N. 41.] which are now with some
 " little Alterations incorporated in the present Body of
 " Statutes, Tit. 9. Sect. 5. §. 3, & 6. --- Tit. 16. §. 6, 7,
 " & 10. --- Tit. 8. §. 1, & 6. --- Tit. 15. §. 5. --- Tit.
 " 14. §. 3. --- Tit. 15. §. 1.

Some Progress having been made by the Delegates
 " of 1616 in amending the Statutes, " 21 June 1617,
 " Placuit ut Exemplar illorum Statutorum quae jam nu-
 " per vel a delegatis confirmata, vel noviter adinventae, vel
 " aliqua ex parte emendatae sunt, exscribatur et in Biblio-
 " thecam publicam reponatur, ut ea videantur Academici om-
 " nes et explorent; quaeque ratificanda, quae corrigenda,
 " quae delenda et deroganda, vel quae alia illis addenda sint,
 " palam et publice dicant et significent. [Regist. N. 47.]

" 16 Apr. 1628. Some new Statutes being sent down
 " from the Chancellor, restraining the Right of voting in
 " academical Elections to Foundationers only, and such
 " Commoner Masters as had resided 100 Days in the
 " preceding Year, "a maiore parte Doctorum, Magistrorum
 " regentium et non regentium admissa, approbata et con-
 " firmata sunt. Procuratoribus reclamantibus et negan-
 " tibus." [Regist. N. 254.]

This occasioned the Crown again to interpose, who
 " sent down a Body of Statutes concerning the Election
 " of Proctors and Collectors, which was directed to be
 " put to the Vote in Convocation, and ever hereafter to
 " be held inviolable; and if any of the younger Masters
 " made any Disturbance therein, the King willed that
 " the Vice-Chancellor should presently send up him or
 " them so offending to answer it, who should be sure to
 " find the King's Displeasure heavy. [Regist. R. 2.]
 " Accordingly,

" 31 Dec. 1628. Has Ordinationes, Statuta, et De-
 " creta serenissimae regiae Majestatis celebris ille Coetus
 " Doctorum, &c, summa cum Acclamatione, omnique animi
 " Alacritate, acceptarunt et unanimi omnium consensu con-
 " firmarunt et ratificarunt." [Regist. R. 4.] These
 " are now comprised in Tit. 6. Sect. 2. §. 4. Tit. 17. Sect. 4.
 " §. 1. et Appendice Statutorum, de Procuratoribus.

" 17 July 1629. A new Delegacy of 15 Persons was
 " appointed at the Instance of the Chancellor (Lord
 " Pembroke) "de redigendis Statutis hujus Universitatis in
 " certum Ordinem et certam Formam, &c." [Regist. R. 12.]

" 24 Aug. 1631. On Occasion of a Dispute relating
 " to a Sermon preached before the University, the King
 " sent down certain Articles concerning Sermons, Ap-
 " peals, the Meeting of the Heads of Houses, &c.
 " [Regist. R. 38.] which being reduced into Statutes,

" 15 Dec. 1631. In Convocatione promulgantur et un-
 " animi Assensu et Consensu Doctorum, &c, compro-
 " babantur. [Regist. R. 41.] The Substance of them,
 " and for the most Part sub iisdem terminis, is now com-
 " prised in Tit. 16. §. 9. Tit. 21. §. 11, 16, 17. et Tit. 13.

The Delegates named in 1629 having finished the
 " Work allotted them, in a Convocation held 20 Aug.
 " 1633, "certiorem fecit Vice-Cancellarius venerabilem
 " Coetum Doctorum, &c, Statuta Academiae longo et
 " fido Examine in Convocatu Praefectorum ventilata, sup-
 " pletis jam tandem quae defuerunt, conciliatis Antino-
 " miis, obsoletis sepelitis, ultimam Cancellarii Manum ex-
 " pectare. Roganti igitur an placeret ut Cancellarius
 " Academiae nomine rogaretur hanc inter Curas suas nu-
 " merans Provinciam, ut Legibus illius etiam iudicio li-
 " matis et firmatis auctoritas et fides major adesset, et re-
 " verentia: Proponenti ista Vice-Cancellario assensu un-
 " animi annuit Convocatio." [Regist. R. 69.]

In a Letter sent by the University to Abp. Laud,
 " their Chancellor, upon this Occasion, and sealed in
 " Congregation 1 Sept. 1633, they express themselves
 " in the following Manner, "Ultra compagemus Jussum
 " quod pronis Cervicibus annectat, vestraque manibus re-
 " cepta jura obsequendi praestitimus assatum, et libertatem
 " ex onere ferent. Vestrum igitur quatenus implorant
 " una nobiscum Statuta, quae Praesulatum vestrum prae-
 " tolerari sunt visa, ut Gratiam et Pondus authenticum a
 " te accipiant, et vestrum annexum Diploma Statutis ip-
 " sis valentius nos componat."

This Act seems to have been considered by the
 " Chancellor as vesting him with as full legislative
 " Powers as Wolsey had before him. He accordingly
 " corrected the Draught, and, having caused a Number
 " of Copies to be printed upon Vellum in Folio, he sent
 " them down to the University 18 Jul. 1634, to be de-
 " posited in each College or Hall for a Year's Probation;
 " that any Amendments which might appear necessary
 " might be made in the Margin, and then one authen-
 " tic Copy might be written fair to be a Rule to Poste-
 " rity of greater Credit. He then proceeds, in his Let-
 " ter directed to Convocation, in these Words: "These
 " are therefore (according to the Power given unto
 " me by an Act with full Consent in Convocation,
 " bearing Date in August 1633) to declare and publish
 " to the University and every Member thereof, that
 " the Statutes now printed are and shall be the
 " Statutes by which the University shall be governed
 " for this Year ensuing, that is, until the Feast of
 " St. Michael the Archangel, which shall be in the
 " Year of our Lord God 1635; reserving to myself
 " Power accordingly to the Decree beforementioned,
 " to add that which shall be fit, and alter or take
 " away from these Statutes, or any of them, that
 " which

"which shall be found by this intervening Practise to be either unnecessary or incommodious for that Government. And then, God willing, at or before that Time, I will discharge that Trust which the University hath commended to me, and absolutely make a Settlement of the Statutes for future Times, even so long as it shall please God to bless them with Use and Continuance."

"22 Jul. 1634. His literis perlectis V. Cancellarius Literarum Statutorum publice exhibuit in Domo Convocationis. Rogavit insuper an Literae ad Honoratissimum Cancellarium mitterentur ab Academia quibus Gratitude nostram intelligeret. Perplacuit." [Registr. R. 91.]

In these Letters the University thus expresses its Sense of this Proceeding. "Singularis quidem Clementia et adhuc inaudita! Leges et Praescripta ad Tempus posuisti, ut nostra demum suffragio et arbitrio confirmetur; et si qua occurrerint errata, non Statuentis Auctoritate sed Patientis Experientia corrigantur." [Registr. R. 92.]

N. B. Among these Statutes there is one (Tit. 10. Sect. 2. §. 2. De Statutis et Decretis in Domo Convocationis condendis et interpretandis) in the following Terms: "Si quando ex Usu Academiae futurum videbitur, aliquid de novo statuere vel decernere; vel si quando circa Statuta et Decreta jam condita vel in posterum condenda dubitatio aliqua emergat, unde ulterior eorundem explanatio requiratur (modo ne, sub explanandi obtentu, sensus statuto cuius affingatur omnem ipsius vim eludens aut enervans; neve haec explanandi Potestas ad Statuta regia Auctoritate sancita vel confirmata extendatur, si ne speciali ipsius Regis Licentia) Statutum est quod, &c." Then follows the Form and Order to be observed in making new Statutes or explaining old ones. And in §. 3. (De Statutis Universitatis transcribendis et custodiendis) Directions are given in what Manner the Registrar of the University "omnia et singula Statuta Universitatis in posterum condenda in Registro suo fideliter describet."

27 Sept. 1634. "In Convocatione significavit Vice-Cancellarius Corpus Statutorum Universitatis in Ordinem digestum, serenissimae Regis Majestatem tanquam Deum tutelarem officiose petere patrum; cuius hortatu et cura saepius insigante, opus toties infeliciter tentatum ultimam manum fere assequutum sit. Eoque nomine ad serenissimum Regem nostrum Carolum literae missae fuerunt."

In this Epistle Dedicatory this Passage in particular occurs: "Huius operae, non fuit tantum sed et futuris saeculis impensae, non aliud apud Posterum expectandum est praemium quam ut ipsi nobis vicem rependant, et Corpus hoc Statutorum affixae interpolando tandem in novum plane Corpus transformetur. Has siquidem leges haud aliud manet fatum quam quo olim usas novimus Lycurgi Rhetras, Aronasque Solonis, quas, nisi nomina ipsarum adhuc superessent, fuisse aliquando quis sciret? Ergo ut major huius Legis apud Posterum constet Reverentia, utque clementius seu fealpro seu sponsa deleteli in posterum petantur, in sinum sacratissimae Majestatis tuae confugiant, atque intra Augustale tuum recipi, id est, sacrari, gestiant. Pudebit scilicet posteros ab Archetypo morum et disciplinae suae penes te deposito longe desciscere." [Registr. R. 96.]

At Michaelmas 1635 nothing appears to have been done. But,

2 Jun. 1636. The Chancellor, Abp. Laud, by Letters of that Date, sealed with both his Archiepiscopal and Chancellor's Seal, and reciting the Process of the whole Affair (and amongst the Rest the Powers given him by Act of Convocation 20 Aug. 1633, in these Words: "Dilectae Convocationi tunc placuit me dilectae Universitatis nomine rogandum esse ut dilectum Statutorum Corpus recenserem atque Sigillo confirmarem;" he therefore ratifies, approves, and confirms them for ever.

N. B. 3 Jun. 1636. The King, by Letters Patent of that Date, recites the said Letters of Confirmation by the Chancellor, and that He "humillime nobis supplicaverit, ut omnia et singula, ut praefertur, circa dilectorum Statutorum Compilationem ac Reformationem acta, grata et rata haberemus ipsi, et regiam eis adjiceremus Confirmationem." Wherefore by very general and

comprehensive Words he accepts, approves, ratifies, and confirms the said Code or Body of Statutes and all and singular the Statutes therein contained, "ut secundum eandem Intentionem in dicto Codice expressam seu habitam vim omnimodam et effectum in dicta Universitate perpetuo in posterum sortiantur et obtineant." And directs that all the Heads of Houses at the Publication of these Letters Patent, shall subscribe their Names to the said Code in token of their Assent to all and singular the Statutes therein contained, and that all the Members of the University should within six Months after the said Publication be sworn to the Observance of the said Statutes.

22 Jun. 1636, The King's Commissioners brought the said Letters Patent and Statutes to the University with a Letter under the King's Signet to the Convocation, dated 12 Jun. 1636, directing the Heads of Houses to make the Acknowledgement beforementioned, "that they all accept these Statutes as the Rule by which you shall be governed and govern." Another Letter was also sent by the Chancellor, dated 15 Jun. 1636, wherein he mentions "quod placuit Academiae in frequenti Convocatione (ne uno refragante) rem totam ad me curamque meam referre, ut sub incudem mea Statuta baec limarentur, et a me Confirmationem acciperent." And afterwards proceeds; "Transmisi vobis Statuta quae Annum probationis suae apud vos compleverunt, jam ex usu illo in nonnullis emendata, et, pro potestate a vobis concessa mihi, sub sigillis meo vestroque in debita Juris Forma confirmata. Quum ecce placuit Regi serenissimo Musisque vestris addictissimo suam etiam superadjicere confirmationem manu propria et sigillo magno munitam. Quod Academiae honorem, moribus disciplinam, Statutis Reverentiam et Firmitatem nequit non conferre."

Then in the same Convocation Mr. Secretary Coke made a Speech (see Laud's Chanc. 88.) after which "Vice-Cancellarius Statutorum Codicem sive Pandecten accepit et amplexus est nomine Universitatis, et latine accurata Oratione laudabat fortunas nostras qui tanta Principis munificentia et Cancellarii opera frueremur. Illa finita, juxta Statutorum Exigentiam Juramento prius praestito, Vice-Cancellarius, Procuratores, singuli Collegiorum et Aularum Praefecti, qui tum aderant, nomina et cognomina sua subscripserunt in fine Statutorum." [Registr. R. 125, &c.]

23 Jun. 1636, The University returned Thanks to the King and their Chancellor by Letters to each; in the former of which They declare, that "accessit Calamo nostro vis Gladii; accessit inermi, et philosophicae prorsus Justitiae Potestas, potestati pompa et splendor. Evexit serenitatis vestrae magnificentia Collectiones nostras in Codicem imperatoriam, Plebiscita in Mandata; et quae stabilendi causa diplomatis vestri amplitudinem, sigilli pondus, vim manus dedisti." They call them in another Part "Leges aeternae;" and they conclude thus, "Si Leges nondum sanctas sed invalidas, et obsequii praedio tentaminique expositas serio venerati sumus, annon colemus ratas et imperatrices? Si tanta fuerit nuda ipsarum bonitas, quantum urgebit Auctoritatis vestrae conscientia et nostri Juramenti Religio?" In their Letter to the Chancellor they express themselves in the following Manner, "Quibus itaque Gratiarum Cumulis compensabimus indefessam vestrae bonitatis pertinaciam, quae nec tuo nec alieno pepercit sudori, quae nec Pacem regis auribus manibusque permisit, donec desperatum hoc opus ultimo examine, supremo sigillo, et imperiali auctoritate perfectum exiret. Tacere non possumus incredibilem vestram in tanta sedulitate prudentiam, quae experiendo aptavit fugum prius quam affixit, et, accuratissimae recognitionis ergo, annum integrum operi consummato indulgit, quoniam in annum platonicum duraturo. Implicuisti nunc demum nexu indissolubili Regem et ipsius Alumnos: Illum, ut propugnet quae nos condidimus Statuta, quia sua; Nos vero, ut iis libentissime obsequamur quae manus regia obsignavit, quia nostris." [Registr. R. 127.]

Since the making of this Body of Statutes, and their receiving their Royal Confirmation, several new Statutes have been made by the University in Convocation

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tion. As, in the first Place, the Statutes of the *Arabic* Lecture founded by Abp. *Laud* himself, and published in Convocation 2 *Jul.* 1640; whereby a fresh Attendance, enforced by a pecuniary Mulct, is laid upon all Bachelors of Arts and Students in Medicine. --- The Statute of Declamations, which alters the Conditions upon which a Master's Degree was then attainable, and which passed the Heads of Houses 21 *Jun.* 1662. when Dr. *Baylie* was again V. Chancellor; who had been President of St. *John's* some Years before the Statutes were compiled, and was made V. Chancellor the first Time 22 *Jul.* 1636, within a Month after the King's Confirmation. --- And the Statute for transferring the Act Exercises and other Solemnities from St. *Mary's* to the Theatre, which passed 27 *May* 1669, under the Auspices of Abp. *Seldon*, who himself had been Warden of *All Souls* at the Time of the King's Confirmation.

All these, and many others of a later Date, were (*pro tanto*) Alterations of the former Statutes. But there has been no Instance of any Licence either given by the Crown, or requested by the University, to enable them to make such Alterations. It must however be observed, that no Alteration has been attempted in any of those particular Statutes before-mentioned, which had received a special Sanction or Confirmation from the Crown, before the present Body of Statutes was compiled and published.

Upon a Proposal lately made to compile a new explanatory Statute, concerning a Matter not affected by any of the said Royal Statutes, a Difficulty has arisen with Regard to the Power of the University to

make Statutes or Explanations of Statutes, without a Royal Licence; it being conceived by the Objectors, that the general Confirmation superadded to the *Corpus Statutorum* by K. *Charles* the first, 3 *Jun.* 1636, has brought the whole Body within the Exception or Parenthesis of *Tit.* 10. *Seet.* 2. §. 2. above stated, and made every Statute in the Book unalterable and unexplicable, unless by the King's Authority. Therefore

Qu. 1. Has the University Power of making Statutes, or By-Laws, (not contrary to the Law of the Land or it's own particular Charters confirmed by Act of Parliament) without obtaining a Royal Licence, where the Subject Matter of such Statutes is entirely new, and imports no Infringement on former Statutes?

Qu. 2. Has the University Power of making such Statutes, without obtaining such Licence, where the Subject Matter of them imports an Alteration or Explanation of any former Statutes, which were not specially confirmed by Royal Authority before the Compilation of the present Body, but which are now included in the subsequent general Confirmation of 3 *Jun.* 1636?

Qu. 3. Has the University Power of making such Statutes without obtaining such Licence, where the Subject Matter of them imports an Alteration or Explanation of such former Statutes as were specially confirmed by Royal Authority before the Compilation of the present Body of Statutes? Or has the Act of the Predecessors (confirmed by the King's Charter) abridged in these Points, or in any of them, the legislative Power of the Successors?

A N S W E R.

1st. *Qu.* **W**E are of Opinion, that the University as a Body Corporate by Prescription, and confirmed by Charter, has a Power of making By-Laws or Statutes for their good Government; such Power being inherent in their Constitution, and included in the original Act of Incorporation. And in this Case we think such Power may be exercised, without obtaining a Royal Licence, where the Subject Matter doth not infringe upon or any Way affect any former Statute.

2^d. *Qu.* We likewise are of Opinion, that the University has, by the same inherent Power as a Body Corporate, a Power of making Statutes where the Subject Matter of them imports an Explanation or Alteration of former Statutes, which were not specially confirmed by Royal Authority, before the Compilation of the present Body of Statutes; but which are now included in the subsequent general Confirmation of the 3d *June* 1636; for the Reasons offered in our Answer to the next Question.

3^d. *Qu.* We are also of Opinion, that the University has the Power of making such Statutes, without obtaining a Royal Licence, where the Subject Matter of them imports an Explanation or Alteration of such former Statutes as were specially confirmed by Royal Authority, before the Compilation of the present Body of Statutes. For, first, we think that the King has no Power vested in him by his Prerogative, or otherwise, to give Laws or Statutes to the University after it's original Act of Incorporation, without their Acceptance, Assent, or Confirmation. And we also think, That it was not in the Power of the University

to delegate their Right of making perfect By-Laws or Statutes to any Subject, or even to the King: And that no Statutes, made by such Delegation, would be valid without the Assent or Confirmation of the Convocation. It is that which we think gives *Vitam et Modum* to every Statute. And as it was not in the Power of the University itself to enact any Statutes which should remain unalterable or unrepealable, so we think it could not delegate a Power to any Subject or to the Crown, to enact or make any Laws that should not be repealable without the Consent of such Subject or his Heirs, or such King or his Successors. And though Powers have in some Instances been actually delegated by the University to the Crown, to give them Statutes for their Government, and the Crown has accordingly so done, and such Statutes have been confirmed by Royal Authority, yet even such Statutes so made and so confirmed cannot (we think) abrogate the legislative Power necessarily inherent in, and incident to the University. And we observe, that in all the Instances laid before us of Statutes recommended or given by the Crown, or the Chancellors of the University, to that Body, the Assent and Confirmation of Convocation (which we take to be the legislative Power of the University) has been uniformly required and obtained, before any such Statutes have been received as complete, effective, and perfect Laws.

Jul. 2, 1759.

JOHN MORTON,
R. WILBRAHAM.

